

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Evan Danaher	Team: Team # 5	CCRB Case #: 200603352	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 02/24/2006 7:00 PM	Location of Incident: § 87(2)(b) and inside the 47th Precinct stationhouse	Precinct: 47	18 Mo. SOL 8/24/2007	EO SOL 8/24/2007	
Date/Time CV Reported Thu, 03/16/2006 10:35 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 03/16/2006 10:35 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. DT3 Paul Grieve	29289	922452	NARCB BX
3. SGT Joseph Mckenna	02208	899573	NARCB BX
4. DT3 Dennis Estwick	02592	928257	NARCB BX
5. CPT Lorenzo Johnson	00000	894081	NARCB BX

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Monty Velez	02870	916861	NARCB BX

Officer(s)	Allegation	Investigator Recommendation
A.CPT Lorenzo Johnson	Abuse: Capt. Lorenzo Johnson authorized the entry and search of § 87(2)(b) in the Bronx.	
B.DT3 Paul Grieve	Abuse: Det. Paul Grieve entered and searched § 87(2)(b) in the Bronx.	
C. Officers	Abuse: Inside § 87(2)(b) in the Bronx, officers drew their guns.	
D.SGT Joseph Mckenna	Abuse: Inside the 47th Precinct stationhouse, Sgt. Joseph McKenna authorized the strip-search of § 87(2)(b), § 87(2)(b), § 87(2)(b), and individuals.	
E.DT3 Dennis Estwick	Abuse: Inside the 47th Precinct stationhouse, Det. Dennis Estwick refused to show a search warrant to § 87(2)(b) and § 87(2)(b).	

Synopsis

§ 87(2)(b) called in the following complaint to the CCRB on March 16, 2006. On February 24, 2006, the barbershop in which § 87(2)(b) works at § 87(2)(b) in the Bronx was raided by a group of plainclothed officers. The officers entered and searched the establishment based on information gathered by Det. Paul Grieve with their guns drawn (allegations A, B, and C) and arrested the nine employees and customers present. The arrested men, § 87(2)(b), § 87(2)(b), § 87(2)(b), § 87(2)(b), § 87(2)(b), § 87(2)(b), § 87(2)(b), § 87(2)(b) and § 87(2)(b) were then taken to the 47th Precinct stationhouse where they were strip-searched (allegation D). While they were in holding cells in the stationhouse, both § 87(2)(b) and § 87(2)(b) the owner of the barbershop, requested that Det. Dennis Estwick present them with a copy of the search warrant, which he never did (allegation E).

§ 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Summary of Complaint

§ 87(2)(b) a § 87(2)(b) black male, was interviewed at the CCRB on February 24, 2006 (encl. 11). On February 24, 2006, § 87(2)(b) was § 87(2)(b), located at § 87(2)(b) in the Bronx.

A plainclothed black male knocked on the front door and someone unlocked it and let him in. He walked to the back of the shop, identified himself as a police officer, and told everyone not to move. Five or six additional plainclothed male officers, all white, then walked in behind him. One of the men had a crowbar in his hand. Two of these six men had their guns out and walked into the bathroom at the back of the shop, making sure that no one was in there. § 87(2)(b) the owner of the shop, announced to the officers that he was the owner and asked them what was going on. An officer informed him that they were going to search the location.

The officers told everyone inside the shop to empty their pockets and searched them as well. § 87(2)(b) did so, removing his cell phone, wallet, keys and change and placing them on his barber chair. An officer frisked § 87(2)(b) after asking him to remove everything from his pockets. § 87(2)(b) was among the last to be searched. The officers then had everyone sit down in the waiting area chairs. There were approximately nine people in total being held by the police at this point. They asked § 87(2)(b) if there was anything illegal in the shop, and he said no and encouraged them to proceed with their search, as they would find nothing. The officers searched the shop, opening and searching through cabinets, closets and drawers. All five or six officers present participated in the search. As some of them were searching, § 87(2)(b) could overhear them speaking with § 87(2)(b) and one of the officers informed him that they had found a scale used to weigh narcotics. § 87(2)(b) never saw the scale, however. The officers asked who the scale belonged to and everyone stated that they had no idea. § 87(2)(b) stated that he was not aware of a scale in the shop.

It was then announced that all of the civilians present in the barbershop would be arrested. The nine men were handcuffed and lead out to a white unmarked van that was parked outside the shop. § 87(2)(b) was allowed to leave the contents of his pockets at the shop and took only 20 dollars with him. Upon exiting, § 87(2)(b) noticed that there were several officers outside that never entered the shop. He stated that he

believes one of their clients was stopped in front of the shop in his car. He heard that the officers searched this man's vehicle. He further indicated that one of § 87(2)(b)'s clients was arrested in the Chinese food store across the street from the shop at around the same time that the shop was searched. The officers were in the shop for approximately 45 minutes in total.

The men were then transported to the 47th Precinct stationhouse where they were fingerprinted, processed and searched. While inside the 47th Precinct, § 87(2)(b) asked an officer, described as having a "dead eye" and identified via investigation as Det. Dennis Estwick if he could see the warrant. The officer answered that he had a warrant but was not obligated to show it to § 87(2)(b). § 87(2)(b) was strip-searched at the 47th Precinct. He was taken by an officer into a cell area and told to remove his clothing so that he was completely naked. § 87(2)(b) complied, and he was instructed to bend over, cough and jump up and down once. He was also asked to shake out his socks and bang his shoes against a doorway. § 87(2)(b) did not see anyone else searched, though they were all taken out of the cell, one by one and then brought back, just as he was. After some hours in holding at the 47th Precinct stationhouse, the men were driven by Det. Estwick to Bronx Central Booking, but were informed that they would actually be lodged overnight at the 49th Precinct.

Results of Investigation

Civilian Statements

§ 87(2)(b) (encl. 12)

§ 87(2)(b) a § 87(2)(b) black male, contacted Inv. Anderson by phone on April 28, 2006. He is the § 87(2)(b) and was working on the date of incident. § 87(2)(b) stated that it was cold on that day and the door to the shop blows open unless you lock it. Thus, on that day, the door was locked. § 87(2)(b) saw a plainclothed black male push the door very hard and figure out that it was locked, so he directed one of the other barbers to open the door. When the door was opened, the man walked in, along with two or three other plainclothed males who promptly announced that they were the police. § 87(2)(b) asked them if he could help them and they stated that they were going to search the location. § 87(2)(b) told them to start with his station, and the officers began to search the shop. § 87(2)(b) never saw a warrant, but never asked to see one while the search was underway. The officers directed all civilians present to the waiting area at the front of the shop and they frisked everyone there. At this point, one of the officers pulled § 87(2)(b) aside and stated, "I know you're selling drugs, and if you are, you better tell me, because when I find them I'm going to close down your business and I'm going to lock you up." Five or six additional officers entered the location with their guns drawn. Throughout this time, as patrons entered the location, officers stopped them and frisked them. They recovered a knife on one of the men. The shop is one room, with the exception of the bathroom. They searched the bathroom, searched all the drawers in the shop and tried to "poke up" the ceiling to see if anything was hidden up there. One of the officers informed § 87(2)(b) that he found a scale with marijuana residue on it inside the shop. § 87(2)(b) told the officers that he knew nothing about a scale and denied having one. He never saw the scale that the officers claimed to find. The civilians present were then informed that they were all under arrest. They were transported to the 47th Precinct stationhouse together in a van after about 30 minutes. § 87(2)(b) later learned that one of his friends was stopped in his vehicle outside of the shop. He did not know this man's name, but heard that his vehicle was searched. He was not arrested with the rest of the men at the barbershop.

At the precinct, § 87(2)(b) was strip-searched in the holding cell area. A white male officer who had been present at the search of the barbershop performed the strip-search. The officer asked him to remove all of his clothing and asked him to cough. He was the only officer present during the strip-search. This was done inside the holding cell area.

After he was strip-searched, § 87(2)(b) asked Det. Estwick, who had driven them in the prisoner van and was also described by § 87(2)(b) as having something wrong with his eye, if he could see the search warrant. Det. Estwick responded that he could not find it and never produced a copy.

§ 87(2)(b) (encl. 13)

Inv. Anderson spoke with § 87(2)(b) a § 87(2)(b) black male, over the phone on May 25, 2006. § 87(2)(b) was seated in a chair in the barbershop about to get a haircut when three or four officers entered the shop. The officers announced that they were searching for guns and drugs, and the civilians were told not to move. An additional three or four officers entered behind the first group. Approximately five minutes after the officers entered an unidentified male civilian entered the shop and turned around when he saw the officers. Officers stopped him and § 87(2)(b) heard that they recovered a knife on him, though he did not see the knife.

At the chair that he was seated in, § 87(2)(b) was frisked by a white officer, who told § 87(2)(b) to put his hands in the air, patted him down and told him to take his keys out of his pockets. § 87(2)(b) left the contents of his pockets at the shop. Officers then searched the shop, going into all the drawers in the shop and the bathroom. § 87(2)(b) did not see that they recovered anything. They were in the shop for approximately 45 minutes before they informed everyone in the shop that they were going to be arrested. They were all handcuffed and put into a van that was backed up near the shop entrance.

They were brought to the 47th Precinct stationhouse. Inside the stationhouse at some point § 87(2)(b) asked a large black male officer with something wrong with his eye, identified as Det. Estwick, if he could see the search warrant. Det. Estwick informed § 87(2)(b) that the officer that had the warrant was not present. At the stationhouse, they were one by one taken from the cell to a room that was approximately 20 feet from the cell area where they were strip-searched. § 87(2)(b) stated that Det. Estwick and a Hispanic officer directed § 87(2)(b) to another room where he was instructed to take off his shoes and pull down his pants and squat. All of the men arrested were removed to a separate cell at one point in a similar fashion and § 87(2)(b) therefore assumed they were all strip-searched as well. The prisoners were transported to Central Booking and then hours later brought to a different stationhouse. They slept overnight at the stationhouse and were brought back to Central Booking the following day.

Attempts to Contact Additional Civilians

After interviewing § 87(2)(b) Inv. Anderson mailed please call letters to all eight of the additional arrestees on April 24, 2006. Letters to § 87(2)(b) and § 87(2)(b) were returned as undeliverable with no forwarding address. Final please call letters were sent to the remaining five potential victims on May 19, 2006. § 87(2)(b) called Inv. Anderson on May 24, 2006 and left a voicemail. Inv. Anderson called him back and left him a phone message. No further contact was received from § 87(2)(b) or any of the other arrestees other than § 87(2)(b) and § 87(2)(b). Inv. Anderson also provided § 87(2)(b) with several business cards to distribute to other victims in this case, but no contact was received from any other than § 87(2)(b) and § 87(2)(b).

Officer Interviews

Sgt. Joseph McKenna (encl. 14)

Sgt. McKenna, a § 87(2)(b) -old white male with 15 years on the NYPD, was interviewed at the CCRB on September 19, 2006. On February 24, 2006, he worked a 12:30PM-9:00PM shift and was the entry supervisor for a search warrant team. He arrived at the scene with Det. Paul Grieve and was plainclothed but wearing a raid jacket. He was assigned to an unmarked Chevrolet Trailblazer. He had the following relevant entries in his memobook pertaining to this incident:

1245: Present for duty

1530: with Det. Grieve regarding search warrant

1550: at setup location

1810: to 47 with 9 under

1825: 84

2005: left to Narcotics Borough Bronx

2020: at narc boro Bronx

§ 87(2)(e), § 87(2)(f)

§ 87(2)(f), § 87(2)(e)

On February 24, 2006, Sgt. McKenna's team executed the search warrant at the location. The nine individuals inside the barbershop, employees and customers, were arrested and a search of their persons and the location were conducted. One of the prisoners, who Sgt. McKenna believed identified himself as § 87(2)(b), § 87(2)(b) was kept on scene while the rest of the arrestees were lead out to the waiting prisoner van in order to observe the search as it was underway and make sure that no property was unnecessarily damaged. Sgt. McKenna recalled that he voluntarily showed this individual a copy of the search warrant as a matter of course but stated that this individual "didn't really care to see it." Sgt. McKenna was sure that he had a copy of the warrant and it was likely that Det. Grieve did as well, but was unsure whether any other officers did, though there would have been a spare in his vehicle as well. Sgt. McKenna did not hear any civilian request a copy of the warrant at any time. Sgt. McKenna does not recall any vehicles being stopped outside of the location nor any arrests taking place outside of the barbershop itself.

After the search of the premises turned up paraphernalia but no actual narcotics, Sgt. McKenna, after consulting with Lt. Burke and Capt. Johnson, authorized the strip search of the nine individuals who were arrested upon his arrival back at the 47th Precinct stationhouse. § 87(2)(e), § 87(2)(f)

§ 87(2)(b) Sgt. McKenna noted this search in the precinct command log.

While he was at the 47th Precinct stationhouse, Sgt. McKenna was completing paperwork in a room that is adjacent to the holding cell area but does not allow for direct line of sight or easy communication. He did not hear any requests to see a copy of the warrant from any of the suspects in holding but stated he would have readily done so if he had.

Asked if any of the black officers on the search team had anything unusual about one of their eyes, he stated that Det. Estwick had what might be described as a "lazy eye."

Det. Dennis Estwick (encl.15)

Det. Estwick, a § 87(2)(b) -old black male with five years on the NYPD, was interviewed at the CCRB on October 26, 2006. On February 24, 2006, Det. Estwick worked a 10:33AM-7:00PM shift and was assigned as the prisoner van driver for a search warrant team. He was partnered with Det. Johnson and was plainclothed. He did not have his memobook with him at the time of interview.

On February 24, 2006, Det. Estwick, a black male with a right eye that is noticeably inset and somewhat milky in color, was assigned to the search warrant team that raided a barbershop at § 87(2)(b) in the Bronx. Det. Estwick was assigned to the prisoner van and as such did not make the initial entry into the shop with the rest of the team, instead securing the outside of the entrance. Once the suspects inside had been secured and the actual search commenced, Det. Estwick went into the shop repeatedly to escort individual prisoners outside and log their pedigree information before placing them into the prisoner van. While Det. Estwick was in and out of the shop several times, he did not participate in the search in any way. Det. Estwick did not recall any vehicle stops or arrests being made outside of the shop while he was on scene.

Once all the prisoners were secured and loaded into the van, Det. Estwick drove them back to the 47th Precinct stationhouse for processing while the rest of the team remained at the barber shop to search the premises. Once back at the 47th Precinct stationhouse, Det. Estwick and Det. Johnson walked the prisoners through processing and then brought them back into holding cells. Det. Estwick, who confirmed that he was "in charge of the prisoners" and did spend time in the holding cell area on this particular occasion, stated that he had no recollection of any of them asking him to see a search warrant or mentioning the warrant in any way either while in transit or while back at the stationhouse. Det. Estwick did not believe that he personally had a copy of the warrant on this particular operation.

Det. Estwick explained that he has had prisoners request to see a copy of a warrant after they had already been arrested and taken from the scene of the search, and a warrant is always located and presented to them if one is still physically available at the scene.

Det. Paul Grieve (encl. 16)

Det. Grieve, a § 87(2)(b)-old white male with 8 years on the NYPD, was interviewed at the CCRB on June 21, 2006. On February 24, 2006 Detective Grieve was assigned to executing a search warrant. He did not know his exact tour, but stated that he was working at the time of the incident. He was assigned to an unmarked motor vehicle. He was dressed in plain clothes, though he could not remember what he was wearing specifically.

§ 87(2)(e), § 87(2)(f)

§ 87(2)(b). He did not wish to divulge any additional information regarding the specifics of these purchases. He and his team, which included Det. Monty Velez and Sgt. Joseph McKenna, and approximately six additional officers from Bronx Narcotics, entered the barbershop together. He did not know whether or not Sgt. McKenna was the highest-ranking officer at the scene. Det. Grieve did not know who else was present from Bronx Narcotics.

The officers announced that they were police officers and that they had a search warrant. Det. Grieve specifically spoke with § 87(2)(b), § 87(2)(b) and told him that he had a search warrant. § 87(2)(b) was compliant throughout. He never asked Det. Grieve to see the search warrant. The officers then began searching the barbershop. There is one main room and a bathroom. They searched the main room, and the bathroom. In the main room they went into drawers and there were no closets. Det. Grieve actively searched the location. He stated that the remainder of the officers were either searching or securing the nine men that were inside the location. Det. Grieve believes that he himself found a gravity knife on the floor of the main room of the barbershop and he believes he also found either drugs or paraphernalia though he was not certain. He did not know where he found the drug-related items. Once these items were recovered, which was within a few minutes, the decision was made to arrest all nine men inside the shop. While the search and arrest of the individuals inside the shop was going on, no additional civilians entered the shop. Detective Grieve stated that they would have secured the door of the shop so as to make sure that this did not happen. Det. Grieve did not remember anyone being arrested outside the shop or any car stops taking place outside the shop.

There were nine people in the barbershop at the time that the warrant was executed and all nine were arrested. They were charged with possession of the weapon and the drug paraphernalia, if that is what was found. They were all frisked inside the shop, though Det. Grieve could not remember whether he frisked or searched any of them. He could not remember whether or not any contraband was found on any of the civilians. They were transported to the 47th Precinct stationhouse in a prisoner van driven by Bronx Narcotics officers. All nine of the men were compliant throughout the incident. At the stationhouse, Det. Grieve was in charge of completing all of the paperwork for the nine men arrested, however, he did not have any interaction with the prisoners at the stationhouse. His last interaction with any of the men arrested was at the barbershop. He completed the arrest paperwork in a separate room from the cells. He stated that it is the responsibility of the officer that drove the prisoner van to search the prisoners at the stationhouse and place them in the cells. Det. Grieve was not aware at the time of whether or not the prisoners were strip-searched. Detective Grieve was shown the command log and stated that he did not enter the arrests in the command log. He stated that he remained at the stationhouse for approximately an hour doing the paperwork the entire time. Sergeant McKenna assisted Det. Grieve with the paperwork the majority of the time and he did not see him have any interaction with the civilians. Sergeant McKenna left the stationhouse with Det. Grieve. Det. Grieve stated that he only knows that Det. Velez was present for the entry and returned to the stationhouse along with all the officers on the team executing the warrant. However, he did not know any of the specifics of what action Det. Velez took during the course of the incident.

Police Documentation

Bronx Supreme Court Search Warrant § 87(2)(b) (encl. 17): The warrant, signed by the § 87(2)(b), authorizes the entry and search of § 87(2)(b) at § 87(2)(b) within 10 days of § 87(2)(b). Targeted for seizure are marijuana and evidence tending to demonstrate that

the premises are utilized for the unlawful possession, packaging, and sale of marijuana, and other drug paraphernalia, as well as papers and effects to link those found inside with ownership of the establishment.

Roll Call (encl. 18): The Bronx Narcotics roll call for the 47th Precinct module shows the search team listed on the tactical plan as present for duty, including Sgt. McKenna, Det. Estwick, and Det. Grieve.

Pre- and Post-Execution Plan (encl. 19): The pre- and post-search warrant execution plan for this search shows Capt. Johnson as the overall supervisor, Lt. Burke as the module supervisor, and Sgt. McKenna as the entry supervisor in charge of the rest of the team. § 87(2)(e)

47th Precinct Command Log (encl. 20): The command log shows that all nine men arrested in the barbershop were logged in at 8:00PM. All were charged § 87(2)(b). Each individual is noted as having been strip searched, authorized by Sgt. McKenna with his shield number and command listed. The men were all removed to Bronx Central Booking at 9:45PM

Property Vouchers (encl. 21): In addition to personal property logged in, Property Clerk's Invoice § 87(2)(b) shows that a gravity knife and a Salter electronic scale were recovered from the barbershop. These possessions were listed as the property of § 87(2)(b)

Officer and Complainant CCRB History (encl. 3-9)

This is the first complaint of § 87(2)(b), § 87(2)(b), and § 87(2)(b). Capt. Johnson, Sgt. McKenna and Det. Estwick have no previous substantiated CCRB allegations and no additional pending allegations. Det. Grieve has no previous substantiated allegations but three pending allegations, all from CCRB case #200615621. The allegations against him in this case include force, stop and question, and search of person.

Complainant and Victim Criminal Conviction History (encl. 23)

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Conclusions and Recommendations

Officer Identification

Capt. Johnson, though not interviewed, was nevertheless the ranking officer on scene at the time of the entry and search as shown in the pre- and post-search execution plans and Sgt. McKenna's statement. § 87(2)(g)

Det. Grieve was, § 87(2)(e), § 87(2)(f)

He also admits to participating in the entry and search of the barbershop.

Sgt. McKenna was identified as the search supervisor in this incident by the tactical plan and his own admission. He also confirmed that while he consulted with Captain Johnson and Lieutenant Burke before authorizing the strip-search of the arrestees, he stated that he was the person who actually authorized that search.

Det. Estwick was described as having something noticeably wrong with one of his eyes by all three of the participating victims. His right eye is, in fact, somewhat inset and off-color from his left. He also confirmed that he drove the prisoner van and spent time in the holding area at the 47th Precinct stationhouse, thereby matching both the description and location of the officer described as having denied the presentation of the search warrant.

Undisputed Facts

The basic facts of this case are not in dispute. On February 24, 2006, officers from Bronx Narcotics executed a search warrant at § 87(2)(b). The nine employees and customers inside were placed under arrest and the establishment was searched, turning up a scale but no actual narcotics. The arrested men were taken back to the 47th Precinct stationhouse and were strip-searched.

Disputed Facts

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) stated that Det. Estwick informed him that he had a warrant but was not obligated to show it to him. § 87(2)(b) recalled that Det. Estwick stated that he simply could not find a copy of the warrant. § 87(2)(b) however, recalled Det. Estwick stating that the officer or officers who had the warrant had already left the stationhouse. As for Det. Estwick himself, he stated that he never received any such request but would have willingly displayed the warrant had one been made.

Credibility Analysis

§ 87(2)(b), § 87(2)(g)

Allegations not pled

§ 87(2)(b) and § 87(2)(b) both stated that they learned after the fact that an acquaintance's vehicle was stopped and searched, presumably by Sgt. McKenna's search team, around the time of the execution of this warrant. The men were unable to provide any further details on how and why this stop took place and, indeed, did not know the contact information or even name of this "friend." § 87(2)(g)

Allegation A: Abuse of Authority: Capt. Lorenzo Johnson authorized the entry and search of § 87(2)(b) in the Bronx.

Allegation B: Det. Paul Grieve entered and searched § 87(2)(b) in the Bronx.

§ 87(2)(b), § 87(2)(g)

Allegation C: Abuse of Authority: Inside § 87(2)(b) in the Bronx, officers drew their guns.

§ 87(2)(g)

Allegation D: Abuse of Authority: Inside the 47th Precinct Stationhouse, Sgt. Joseph McKenna authorized the strip-search of § 87(2)(b), § 87(2)(b), § 87(2)(b), and individuals.

Patrol Guide Procedure 208-05 (encl. 2) states that "a strip-search will be utilized when the arresting officer reasonably suspects that weapons, contraband, or evidence may be concealed upon the person or in their clothing in such a manner that they may not be discovered by the previous search methods." § 87(2)(e), § 87(2)(f)

§ 87(2)(g)

§ 87(2)(g)

Allegation E: Abuse of Authority: Inside the 47th Precinct stationhouse, Det. Dennis Estwick refused to show a search warrant to § 87(2)(b) and § 87(2)(b)

NYPD Interim Order 41-1s.03 (encl. 1) states “the member of the service executing the search warrant shall, when able to do so safely, show a copy of the search warrant to any of the occupants of the premises,” (encl. 1). § 87(2)(b), § 87(2)(g)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: